

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-222806.3

DATE: May 9, 1986

MATTER OF: A&Z Engineering Co.--Request for
Reconsideration

DIGEST:

Original decision concluding that the protester's bid properly was rejected as nonresponsive is affirmed where the protester offers no evidence in its request for reconsideration that the basis of the decision--that the protester had submitted a qualified bid--was in error.

A&Z Engineering Company requests reconsideration of our decision A&Z Engineering Co., B-222806, Apr. 21, 1986, 86-1 CPD ¶ ___, dismissing the protest on the ground that the prime contractor properly rejected the protester's bid as nonresponsive. We affirm our original decision.

In its protest, A&Z challenged any award under request for quotations (RFQ) No. S-86-542 for demolition charges issued by Martin Marietta Ordnance Systems, Inc. in its capacity as operator of the Milan Army Ammunition Plant, Milan, Tennessee. In a letter submitted with its quotation under the RFQ, the protester requested two deviations in the type of aluminum alloy specified in the technical drawings for the items covered by the RFQ. The letter stated in part that the deviations were necessary for manufacture of the items with the protester's tooling. Martin Marietta then notified A&Z that its quotation had been found nonresponsive. We concluded that A&Z's quotation properly was rejected as nonresponsive since it was qualified by the request for deviations from the type of alloy specified.

In its request for reconsideration, A&Z first questions our observation in the original decision that Martin Marietta's rejection of A&Z's quotation as "nonresponsive" reflected the fact that Martin Marietta

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treated the RFQ as an invitation for bids and the quotations submitted as sealed bids. Our statement was intended only to clarify that Martin Marietta had followed the procedures for sealed bidding even though the solicitation was called an RFQ. We are unaware of any prohibition against Martin Marietta as a prime contractor following sealed bidding procedures in awarding a subcontract under an RFQ. Moreover, whether Martin Marietta used the proper terminology is not relevant to the issue raised in the protest--whether, in light of its request for deviations, A&Z made an unqualified offer to provide the item called for by Martin Marietta.

Although A&Z concedes that it proposed to use an alloy different from the alloy specified in the drawings, A&Z now states that the difference is insignificant as its alloy is chemically equivalent to the alloy specified in the RFQ and the deviations it requested concern only the methods for producing the alloy. A&Z asks whether it is within Martin Marietta's sole discretion to decide if the requested deviations are "trivial." As our original decision made clear, we examined Martin Marietta's decision to reject A&Z as nonresponsive and concluded that it was reasonable since A&Z had conditioned its performance on approval of the requested deviations. Since A&Z has offered no evidence to show that our conclusion was in error, we affirm our original decision.

fu *Raymond E. Fox*
Harry R. Van Cleve
General Counsel